

### **REMARKS**

This is a full and timely response to the Office Action of February 9, 2009. By the present Amendment, claims 1, 10, 19, 21, 23 and 30 have been amended to more particularly and distinctly point out the subject matter of the present invention. Support for the amendments can be found, for example, in the abstract, paragraphs 0073-0078 of the present application publication and the related drawings. Reconsideration and allowance of the application and all presently pending claims are respectfully requested.

### **Response to 35 USC § 103 rejections**

Claims 1-18 stand rejected under 35 USC § 103 in light of Feinberg in view of the MERS Integration Handbook reference. Claims 19-22 stand rejected under 35 USC § 103 in light of the same Feinberg and MERS references, further in view of the Cohen reference. Claims 23-26 and 28-31 stand rejected under 35 USC § 103 in light of the MERS Integration Handbook in view of Cohen. Claim 27 stands rejected under 35 USC § 103 in light of MERS Integration Handbook in view of Cohen and further in view of Feinberg.

The advantages of the present invention over all of the cited references have been detailed in Applicant's past response as well as in responses and briefs noted in information disclosure statements submitted in the present application.

With regard to the present rejections, the Feinberg reference is directly related to the outsourced process of creating and releasing a lien that is the responsibility of the creditor (or

lender). It describes a medical lien recordation and post-payment release recordation process (see paragraphs [0011-0016]) wherein the lien release is prepared and recorded once the lien holder has been paid [0016]. The Feinberg system does not address the situation in the real estate context where there is a settlement agent without authority to release a lien on behalf of a payoff lender. Accordingly, Feinberg is noticeably void of any discussion of providing access to real property-related lien records, identifying at least one real property-related lien where a note underlying the at least one lien has been satisfied, searching the lien records and determining from the lien records whether the at least one real property-related lien is due for release, and identifying whether at least one lien holder is subject to an action for non-release of a real property-related lien. There is simply no discussion, mention or teaching of such actions, and Feinberg obviously did not contemplate such actions because the Feinberg reference is directed to medical liens and to a lesser extent, construction liens. Indeed, the Examiner has admitted that Feinberg does not disclose determining “whether the at least one lien is due for release as a result of a note underlying the lien having been satisfied.” (Office Action, page 9, item j.) Thus, the application of Feinberg to those elements of amended claim 1 is improper. Claim 10 has been amended similarly to claim 1, and Applicant submits that the Feinberg reference is equally inapplicable to these elements of claim 10.

With regard to independent claim 19, the Examiner has acknowledged that neither Feinberg nor MERS Integration Handbook discloses determining whether a lien record associated with the at least one lien can be tracked electronically, and whether the at least one lien is due for release as a result of a note underlying the lien having been satisfied. (Office Action, page 9, item j.) Against this claim term, the Examiner has cited the abstract and two

boxes in Fig. 11 of the Cohen reference. Box 504 states “Payee presents tracking check to bank for payment” and box 516 states “bank releases lock funds equal to face value of presented tracking check and remits payment of said funds to payee.” The abstract and the referenced boxes have nothing to do with the cited claim language. The abstract may disclose tracking items, but has nothing to do with *determining whether an item can be tracked*. Further, the boxes of Fig. 11 in Cohen as well as the remainder of Cohen have nothing to do with *determining whether the lien is due for release as a result of the underlying note having been satisfied*. Such elements are clearly not present in Cohen.

The Cohen reference only notes the status of a lien when it has been released. Cohen pertains to tracking items in a database for use by financial institutions in registering and tracking the title and possession of such items. The items being tracked in the Cohen system are personal property items and no discussion of financial institutions underwriting mortgage loans for real property is provided. Accordingly, Cohen does not contemplate the intricacies of real property lien and note tracking as does the present invention as claimed. For example, Cohen does not address situations where a note has been paid but the lien has not been released. A lien release is not the same as a note underlying the lien being paid off. This notion is detailed on pages 8-9 of Applicant’s March 2008 response. Thus, Cohen does nothing to facilitate that lien release by a financial institution in the event it is obligated to do so because the underlying note has been satisfied. As such, Cohen is noticeably void of any discussion of a tracking program that determines whether an obligation underlying the lien for the given transaction record has been satisfied and the lien not released as a result.

For these reasons, Cohen cannot be combined with Feinberg and MERS Integration Handbook to obviate the invention as presently claimed in independent claims 19, 21, 23 and 30.

The prior art must show *all* claim elements in order to find anticipation or obviousness, and *all* words in a claim must be considered in judging the patentability of that claim against the prior art (see *Manual of Patent Examining Procedure (MPEP)* §§ 706.02(j) and 2143.03). For at least the above reasons, Applicant respectfully submits that the person of ordinary skill in the art at the time of applicant's invention would not have found the invention as presently claimed obvious in light of the Feinberg, MERS and Cohen references or any other references of record. Applicant submits that each of the independent claims 1, 10, 19, 21, 23 and 30 are thus allowable over the prior art of record, and further submits that each of the dependent claims is similarly allowable as being dependent from an allowable independent claim.


## **CONCLUSION**

For the above reasons, Applicant respectfully submits that the rejections in the Office Action of February 9, 2009 have been traversed, and that the present application is in position for prompt adjudication and allowance. Applicant believes that all of the claims currently pending in the present application are now in condition for allowance, and an early notice to that effect is earnestly solicited.

Should there be any outstanding issues requiring discussion that would further the prosecution and allowance of the present application, the Examiner is invited to contact Applicant's undersigned representative at the address and phone number provided below.

A petition for three-month extension of time is accompanying this response. The Commissioner is hereby authorized to charge Deposit Account No. 50-0766 in payment of the required fees, with the exception of the issue fee.

Respectfully submitted,  
WILLIAMS MULLEN, PC

A handwritten signature in black ink, reading "Thomas F. Bergert". The signature is fluid and cursive, with the first name "Thomas" and last name "Bergert" clearly legible.

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Attached: petition for 3-month extension of time

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